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BRINKS  
HOFER  
GILSON  
& LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: BUEHLER ET AL.

U.S. Patent No. 6,863,467

Appln. No.: 10/084,607

Filed: February 27, 2002

For: CRASH CUSHION WITH DEFLECTOR  
SKIN

Examiner: Hartmann, Gary

Art Unit: 3671

Attorney Docket No: 33-858

Mail Stop Patent Ext.  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Request for Reconsideration of Patent Term Adjustment Pursuant to 37 C.F.R. § 1.705(d) with Exhibit A (Issue Notification), Exhibit B (PAIR System Patent Term Adjustment History), and Exhibit C (copy of stamped postcard received on June 7, 2004) (in duplicate).
- ☒ Return Receipt Postcard

Fee calculation:

- ☒ No additional fee is required.
- ☐ Small Entity.
- ☐ An extension fee in an amount of \$\_\_\_\_\_ for a \_\_\_\_\_-month extension of time under 37 C.F.R. § 1.136(a).
- ☐ A petition or processing fee in an amount of \$\_\_\_\_\_ under 37 C.F.R. § 1.17(\_\_\_\_\_).
- ☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			X100=			x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=			+ \$360=	
					Total	\$		Total	\$

Fee payment:

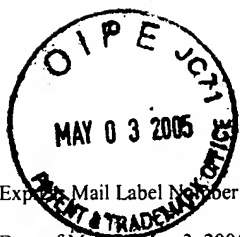
- ☐ A check in the amount of \$\_\_\_\_\_ is enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$\_\_\_\_\_. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$\_\_\_\_\_ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

May 3, 2005  
Date

Andrew D. Stover (Reg. No. 38,629)





Export Mail Label Number EV 326 038 196 US

Date of Mailing May 3, 2005

Our Case No. **33-858**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
<b>Buehler et al.</b>	)	
	)	Examiner: <b>Hartmann, Gary</b>
U.S. Patent No. <b>6,863,467</b>	)	
	)	Group Art Unit No. <b>3671</b>
Issue Date : <b>Marh 8, 2005</b>	)	
	)	
Serial No. <b>10/084,607</b>	)	
	)	
Filing Date: <b>February 27, 2002</b>	)	
	)	
Title: <b>CRASH CUSHION WITH DEFLECTOR</b>	)	
<b>SKIN</b>	)	

**REQUEST FOR RECONSIDERATION OF**  
**PATENT TERM ADJUSTMENT**  
**PURSUANT TO 37 C.F.R. § 1.705(d)**

Mail Stop Patent Ext  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

U.S. Patent No. **6,863,467** was issued on **March 8, 2005**. Pursuant to 35 U.S.C. § 154(b) the United States Patent and Trademark Office has calculated a patent term adjustment of 1 day. A copy of (the issue notification for) U.S. patent number **6,863,467** is included herewith as Exhibit A.

Applicant's Attorney believes that the patent term adjustment should be **183** days. For the reasons stated herein, reconsideration of this patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(d). Please charge the petition fee pursuant to 37 C.F.R. § 1.18(e) to

Deposit Account No. 23-1925. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

The patent term adjustment for U.S. patent number **6,863,467** was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit B. Applicant's Attorney believes that errors and/or omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for U.S. patent number **6,863,467** as described in detail below. Pursuant to 37 C.F.R. §1.705(d), this request for reconsideration is being filed within two months of the issue date of the above-referenced patent. Note that U.S. patent number **6,863,467** is not subject to a terminal disclaimer.

**Period of adjustment for activities prior to mailing of Notice of Allowance**

As detailed in the Patent Term Adjustment History that is attached as Exhibit B, the patent term adjustment indicated on the Notice of Allowance was **151** days.

**Period of adjustment pursuant to 37 C.F.R. § 1.703(a)(6)**

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(6) is the number of days in the period beginning on the day ("the 4 month date") after the date that is four months after the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

The issue fee was filed at the U.S. Patent and Trademark Office on **June 7, 2004** as evidenced by the copy of the stamped postcard that is attached as Exhibit C. The four month date calculated pursuant to 37 C.F.R. § 1.703(a)(6) is **October 7, 2004**. U.S. patent No. **6,863,467** issued on March 8, 2005. However, the PAIR system Patent Term Adjustment History, attached as

Exhibit B, erroneously indicated the issue fee was filed on **September 7, 2004**. We believe the difference between the 4 month date and the issue date of the patent should have been **152** days (measured from June 7, 2004, not September 7, 2004) instead of the **60** days indicated in the PAIR system Patent Term Adjustment History, attached as Exhibit B. Applicant's Attorney respectfully requests correction of the date of receipt of the issue fee and re-calculation of the patent term adjustment to take the corrected date into account.

At the same time, Applicants submit that the 90 days of delay attributed to Applicants is in error, since the issue fee was timely received on June 7, 2004.

**Period of adjustment pursuant to 37 C.F.R. § 1.704(c)(10)**

Pursuant to 37 C.F.R. § 1.704(c)(10), when an amendment pursuant to 37 C.F.R. § 1.312 or other paper was submitted after a notice of allowance had been given or mailed, the period of adjustment shall be reduced by the number of days, if any, beginning on the date the amendment pursuant to 37 C.F.R. § 1.312 or other paper was submitted and ending on the mailing date of a supplemental office action or notice in response to the amendment, or four months, whichever is less.

In the present application, an amendment pursuant to 37 C.F.R. § 1.312 <sup>1</sup>was filed in the U.S. Patent and Trademark Office on **June 7, 2004** as evidenced by the copy of the stamped post card attached as Exhibit C and the PAIR system Patent Term Adjustment History. Accordingly, the delay caused by the filing of the amendment is believed to be **120** days, or four months.

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<sup>1</sup> Applicants also submitted a Request for Consideration of a Timely Filed Information Disclosure Statement (Tab C). This request was *NOT* directed to a new IDS, but rather merely requested consideration of references previously filed in a timely and proper fashion.

**Total patent term adjustment**

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delay pursuant to 37 C.F.R. § 1.704. Thus, we believe that the patent term adjustment should be 303 days - 120 days = 183 days, instead of the 1 day indicated on the issued patent.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for U.S. patent number 6,863,467 may not be correct. Accordingly, Applicant's Attorney respectfully requests the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact Applicant's Attorney via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew D. Stover', is written over a horizontal line.

Andrew D. Stover  
Registration No. 38,629  
Attorney for Applicants

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

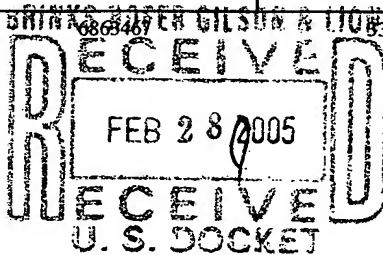


# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,607	03/08/2005	BRINKS HOFFER GILSON & LIONE 866347	53-858	1626

757 7590 02/16/2005  
BRINKS HOFFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610



## ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

### Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 1 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

APPLICANT(s) (up to 18 names are included below, see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Michael J. Buehler, Roseville, CA;  
James B. Welch, Placerville, CA;

ISSU Notification

Printer Friendly

10/084,607 CRASH CUSHION WITH DEFLECTOR SKIN

## Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 10/084,607			
			Days
Filing or 371(c) Date:	02-27-2002	USPTO Delay (PTO):	211
Issue Date of Patent:	03-08-2005	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	210
Post-Issue Petitions (days):	+0	Total PTA:	1
USPTO Adjustment(days):	+0	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL (Days)
03-08-2005	Patent Issue Date Used in PTA Calculation	60	
02-16-2005	PTA 36 Months	↑	
02-09-2005	Receipt into Pubs	↑	
02-08-2005	Dispatch to FDC	↑	
02-08-2005	Application Is Considered Ready for Issue	↑	
02-03-2005	Mail Response to 312 Amendment (PTO-271)	↑	
02-02-2005	Response to Amendment under Rule 312	↑	
12-07-2004	Receipt into Pubs	↑	
10-20-2004	Receipt into Pubs	↑	
09-07-2004	Mailroom Date of Issue Fee Payment	↑	90
06-07-2004	Reference capture on IDS	↑	↑
06-07-2004	Information Disclosure Statement (IDS) Filed	↑	↑
06-07-2004	Amendment after Notice of Allowance (Rule 312)	↑	120
06-07-2004	Workflow incoming amendment IFW	↑	
06-07-2004	Issue Fee Payment Recorded	↑	
05-07-2004	Receipt into Pubs	↑	
03-31-2004	Receipt into Pubs	↑	
03-30-2004	Workflow - File Sent to Contractor	↑	
03-09-2004	Mail Notice of Allowance	↑	
03-09-2004	Mail Examiner's Amendment	↑	
03-05-2004	Issue Revision Completed	↑	
03-05-2004	Examiner's Amendment Communication	↑	
03-05-2004	Notice of Allowance Data Verification Completed	↑	
03-05-2004	Notice of Allowability	↑	
02-11-2004	Mail Restriction Requirement	↑	
02-06-2004	Requirement for Restriction / Election	↑	
01-20-2004	IFW Amended case processing Complete	↑	
01-20-2004	Date Forwarded to Examiner	↑	

Should be 152

→ This is NOT correct!  
No delay should be calculated.



09-30-2003	Mail Non-Final Rejection	151	
09-22-2003	Non-Final Rejection	↑	
09-12-2003	Case Docketed to Examiner in GAU	↑	
01-02-2003	Response after Non-Final Action	↑	
09-06-2002	Case Docketed to Examiner in GAU	↑	
06-19-2002	Application Dispatched from OIPE	↑	
06-07-2002	Application Is Now Complete	↑	
05-28-2002	Information Disclosure Statement (IDS) Filed	↑	
05-28-2002	New or Additional Drawing Filed	↑	
05-28-2002	Payment of additional filing fee/Preexam	↑	
05-28-2002	An assertion that the nature of the legal entities having property rights to the patent authorizes t	↑	
05-28-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑	
05-28-2002	Applicant has submitted new drawings to correct Corrected Papers problems	↑	
03-21-2002	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
03-06-2002	IFW Scan & PACR Auto Security Review	↑	
02-27-2002	Initial Exam Team nn	↑	

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## Calculator!

Enter two dates:	# of Days Between...
<b>From:</b> October 7 2004 <b>To:</b> March 8 2005 <input type="button" value="CALCULATE!"/> <small>* Note that number of days calculated is between noon of the first date to noon of the second date *</small> Disclaimer	<b>October 7, 2004</b> <b>and</b> <b>March 8, 2005</b>  <b>152 Days</b>  <b>= 3648 Hours</b> <b>= 218880 Minutes</b> <b>= 13132800 Seconds</b>
<b>Years, Months, and Days</b> <b>between October 7, 2004 and March 8, 2005</b>  <b>0 Years,</b> <b>5 Months,</b> <b>and 1 Day</b>	

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Serial No. 1U/084,607  
Applicant: BUEHLER ET AL.  
Client/Matter No.: 33-858  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450



Please acknowledge receipt of the below identified:

Items Mailed: Check for \$1630.00 for the Issue Fee and Publication Fee; Transmittal (in duplicate); Issue Fee Transmittal (in duplicate); Request for Consideration of Timely Filed Information Disclosure Statement and References with Tab A (copy of IDS and Form PTO 1449 mailed May 21, 2002), Tab B (copy of USPTO date stamped (May 28, 2002) postcard), and Tab C (copy of USPTO date stamped (May 28, 2004) Form 1449); courtesy copy of three (3) previously cited foreign references; Amendment After Final Under 37 CFR 1.312; and return receipt postcard.

**BRINKS HOFER GILSON & LIONE**

By: Andrew D. Stover, Reg. No. 38,629

Date of Mailing: June 3, 2004